

HOUSE BILL REPORT

ESB 6868

As Reported by House Committee On:
Environmental Health, Select

Title: An act relating to protecting sole source aquifers by providing sewer utility service to mobile home parks.

Brief Description: Protecting sole source aquifers by providing sewer utility service to mobile home parks.

Sponsors: Senators Brown and Marr.

Brief History:

Committee Activity:

Select Committee on Environmental Health: 2/25/08, 2/28/08 [DPA].

Brief Summary of Engrossed Bill
(As Amended by House Committee)

- Allows Spokane County and cities within Spokane County with legislative authority to require a mobile home park using an existing septic system that has not been determined to be failing to connect to a sewer system under certain conditions.

HOUSE SELECT COMMITTEE ON ENVIRONMENTAL HEALTH

Majority Report: Do pass as amended. Signed by 6 members: Representatives Campbell, Chair; Hudgins, Vice Chair; Chase, Hunt, Morrell and Wood.

Minority Report: Do not pass. Signed by 2 members: Representatives Sump, Ranking Minority Member; Newhouse.

Staff: Brad Avy (786-7289).

Background:

Under current state law, cities, towns, or counties cannot require a mobile home park on a septic system to connect to a local sewer system unless a local board of health makes a

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determination that the mobile home park's septic system is failing. Failing septic systems can impact public health, groundwater, and drinking water supplies.

Drinking water supplies are protected, planned for, and regulated through a mix of local, state, and federal statutes including the: State Public Water Systems Act, State Water Pollution Control Act, State Public Water System Coordination Act, State Growth Management Act, State Underground Injection Control Program, Federal Clean Water Act, and federal Safe Drinking Water Act (SDWA).

Under the SDWA, the U. S. Environmental Protection Agency is authorized to designate "sole source aquifers." Sole source aquifers are ground water areas that supply at least 50 percent of the drinking water consumed in the area overlying the aquifer. Sole source aquifers also have no alternative drinking water source which could physically, legally, and economically supply all those who depend upon the aquifer for drinking water. There are 11 sole source aquifers designated in Washington. The Spokane Valley-Rathdrum Prairie aquifer, which extends across Idaho and Washington, is the sole source of drinking water for more than 500,000 people.

Summary of Amended Bill:

Any county lying east of the crest of the Cascade mountains with a population greater than 400,000, and any city within such county, may require a mobile home park using an existing septic system that has not been determined to be failing to connect to a sewer system, when the city or county legislative authority determines that:

- the mobile home park lies above a federally designated sole source aquifer;
- the sewer system is available for connection by the mobile home park;
- replacement of existing on-site septic systems by connection to a sewer system is needed to ensure the protection of drinking water supplies from the aquifer; and
- the cost of connecting the mobile home park to the sewer system on a per unit basis is reasonable and comparable to the current estimated average cost of connecting single-family residences to the sewer system.

The cost of connecting a mobile home park to a sewer system may not be passed on to the tenants of the mobile home park.

The county or city authority requiring a mobile home park to connect to a sewer system should identify and extend financial assistance programs.

Amended Bill Compared to Original Bill:

The bill as amended requires that the cost of connecting a mobile home park to a sewer system may not be passed onto the tenants of the mobile home park.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

(In support) Ground water is a critical source of drinking water for many Washington citizens. Spokane's sole source aquifer is a critical drinking water supply with no feasible alternatives. The City of Spokane and Spokane County have been working on a septic tank elimination program as part of the dissolved oxygen problems in the Spokane River. The bill will address removal of phosphorus from the system. The state has funded about \$5 million per year towards septic tank elimination. Sixty percent of pollution reaching the aquifer is caused by septic systems. Due to coarse soils, septic tank discharge receives little additional treatment. All other classes of property owners must hook up to a sewer system. Typical residential on-site septic systems do not remove phosphates. Phosphates are going down in the Spokane Valley, but they are not where they need to be.

(Opposed) Two previous bills passed in 1998 and 2003 expressly said that if a mobile home park does not have a failing septic system they do not have to hook up to sewer systems. There is no evidence the septic tank system is failing for the 200 unit Pinecroft Mobile Home Park (Pinecroft). Pinecroft sued Spokane County when they were required to hook up to the sewer system at a cost of over \$400,000. This is a constitutional issue. Legal cases show that if an entity does not use a service, it does not have to pay for it. There is a question about the timing of the bill given the current lawsuit. The health department has expertise to determine if a system is failing. The county decided to move forward, but not because the health department found the system to be failing. There is no proof that septic tanks leach into the aquifer. If it has already been decided that the septic tank is failing, without proof, it is not fair to require hook up to the sewer system. The cost of hook up is astronomical. Fifty dollars additional a month would be a hardship on the Pinecroft residents. The committee is urged to retain existing law. Mobile home parks are the last bastion of affordable housing. Parks are closing and fewer are being built. Where are these people supposed to go? Tax bills are getting harder to bear due to increasing property values. There are 93 mobile home parks in Spokane County, though not all are over the aquifer. The health department has not deemed any of these systems failing. It is not just the cost for hook up. The tenant will ultimately have to pay via costs that are passed on. If phosphates cause a septic system to fail, then the existing statute already provides for connection to a sewer system. The bill is seen as a litigation tactic to undercut current law.

Persons Testifying: (In support) Melodie Selby, Department of Ecology; and Ed Thorpe, Coalition for Clean Water.

(Opposed) Representative Schindler; Walt Olsen, Olsen Law Firm, PLLC; and John Woodring, Manufactured Housing Communities Washington.

Persons Signed In To Testify But Not Testifying: None.